



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

Regulatory Division (1145)  
CEPOA-RD  
805 Frontage Road, Suite 200C  
Kenai, Alaska 99611-7755

**PUBLIC NOTICE DATE:** December 22, 2008

**EXPIRATION DATE:** January 21, 2009

**REFERENCE NUMBER:** POA-2006-1660-M1

**WATERWAY:** Chakok River

Interested parties are hereby notified that a Department of the Army (DA) permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Jen Knowles at (907) 283-3519, by fax at (907) 283-3981, or by email at [jen.knowles@usace.army.mil](mailto:jen.knowles@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Peakaview Development Company, LLC, Attn: Mr. Ken Gain, 5313 Arctic Boulevard, Suite 206, Anchorage, Alaska 99518

**AGENT:** Restoration Science and Engineering, Attn: Pat Athey, 911 West 8<sup>th</sup> Avenue, Suite 100, Anchorage, Alaska 99501, (907)278-1023

**LOCATION:** The project site is located within Sections 17 and 20, T. 4 S., R. 14 W., Seward Meridian; Latitude 59.8194° N., Longitude 151.7386° W.; Peakaview Subdivision; near Anchor Point, Alaska.

**PURPOSE:** The applicant's stated purpose is "to construct a minimal road system within the Peakaview Subdivision that provides road access and utility corridors to lots with non-wetland building sites, minimizes wetland impacts, is consistent with Borough road design standards, improves traffic circulation within the subdivision, and enhances access for potential wildfire control and evacuation in the area."

**PROPOSED WORK:** The applicant proposes to discharge approximately 15,219 cubic yards of gravel fill into 3.91 acres of scrub-shrub wetlands to widen 3,305 linear feet of existing roads and construct 5,353 linear feet of new roads within the Peakaview Subdivision. The footprint of the new roads would be 32 feet at the base, with a 22-foot crest. Culverts would be installed at intervals of 300 feet or less to maintain hydrology within wetlands. Additionally, approximately 1.99 acres of wetlands would be temporarily impacted for utility installation. Electric

and telephone lines would be buried within a 10-foot wide utility corridor adjacent to the proposed roadways.

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated July 9, 2008.

ADDITIONAL INFORMATION: The DA issued an After-the-Fact permit to Peakaview Development Company, LLC, on March 12, 2008, to retain an existing 14-foot wide by 875-foot long access road to Peakaview Subdivision, and add approximately 3,300 cy of fill material to increase the overall width to 40-foot wide. Additionally, nine feet of mechanized clearing was authorized on each side of the road. The previous permit authorized impacts to 1.16 acres of wetlands.

Further project information can be obtained by contacting the applicant's agent.

MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material:

- 1) Portions of the platted roads within the Peakaview Subdivision will not be constructed because these would impact wetlands and are unnecessary for establishing access to non-wetland building sites. This includes the extension of Sweet Jewel Road north from Beenie Avenue and the east-west segment of Camille Avenue, corresponding to approximately 3,900 lineal feet and 2.86 acres of permanent road fill in wetlands that will be avoided;
- 2) Driveways will not be constructed across wetlands to access the lots, reducing the total wetland impact;
- 3) The limits of construction will be flagged prior to construction to ensure that permitted project footprint is not exceeded during construction;
- 4) The side slopes will be constructed at 2:1 slopes to reduce the area of fill;
- 5) The road bed will be surcharged as necessary in organic soil areas rather than excavated and filled;
- 6) Equalizer culverts will be installed in the roadways to prevent dewatering or damming of wetlands;
- 7) Silt fencing will be installed and maintained through the construction work;
- 8) The road construction work will occur during the winter months between November and April when the wetland soils are frozen. Preconstruction activities including installation of silt fence along the construction limits will be performed prior to frozen soil conditions to allow proper staking; and
- 9) Installation of buried electric and phone utility lines will be performed during the dormant period for vegetation to reduce impacts and provide for natural re-growth from roots, bulbs, and rhizomes.

The applicant has stated that compensatory mitigation for wetland impacts resulting from this action is not proposed for the following reasons:

- 1) The total area of wetland fill impact, 3.91 acres, is less than 1% of the total wetland area within the subdivision, representing a very small fraction of the total wetland habitat within the property;
- 2) Segments of Camille Avenue and Sweet Jewel Road will not be constructed, representing a total of 3,900 lineal feet and 2.86 acres of potential wetland impact will be avoided by abandoning those road segments;
- 3) Driveways connecting individual lots with subdivision roads will not be constructed in wetlands, reducing potential wetland impacts; and
- 4) The wetland areas within subdivision lots will not be impacted by this action.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area. Preliminarily, the described activity will not affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). Preliminarily, the described activity will not affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authority:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander  
U.S. Army, Corps of Engineers

Enclosures

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT  
550 WEST 7<sup>TH</sup> AVENUE, SUITE 705  
ANCHORAGE, ALASKA 99501-3559  
PHONE: (907) 269-7470/FAX: (907) 269-3981

### NOTICE OF APPLICATION FOR CERTIFICATION OF CONSISTENCY WITH THE ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Division of Coastal and Ocean Management for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. POA-2006-1660-M1, CHAKOK RIVER, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION  
DIVISION OF WATER  
401 Certification Program  
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WQM/401 CERTIFICATION  
555 CORDOVA STREET  
ANCHORAGE, ALASKA 99501-2617  
PHONE: (907) 269-7564/FAX: (907) 334-2415

## NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

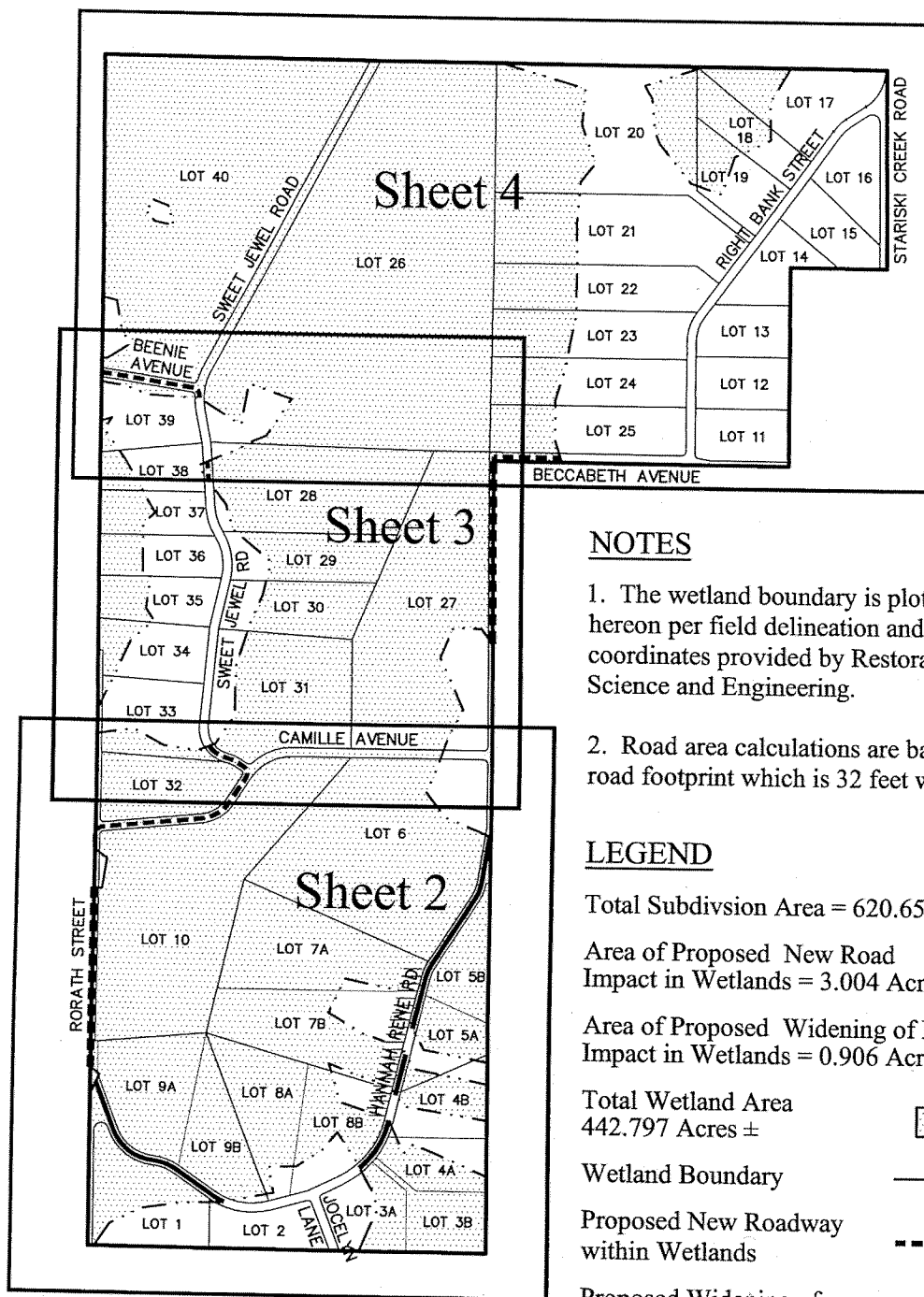
Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-2006-1660-M1, Chakok River**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.





### NOTES

1. The wetland boundary is plotted hereon per field delineation and GPS coordinates provided by Restoration Science and Engineering.
2. Road area calculations are based on a road footprint which is 32 feet wide.

### LEGEND

Total Subdivision Area = 620.653 Acres

Area of Proposed New Road  
Impact in Wetlands = 3.004 Acres  $\pm$

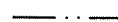
Area of Proposed Widening of Existing Road  
Impact in Wetlands = 0.906 Acres  $\pm$

Total Wetland Area  
442.797 Acres  $\pm$

Wetland Boundary

Proposed New Roadway  
within Wetlands

Proposed Widening of  
Existing 20' Roadway  
within Wetlands



Sheet 1 of 4

KEY MAP

JULY 9, 2008

SCALE: 1"=1200'

**Lantech**

Peakaview Subdivision Roads

Proposed Roadway in Wetland Areas

Peakaview Subdivision

Plat 2004-97 Homer Recording District

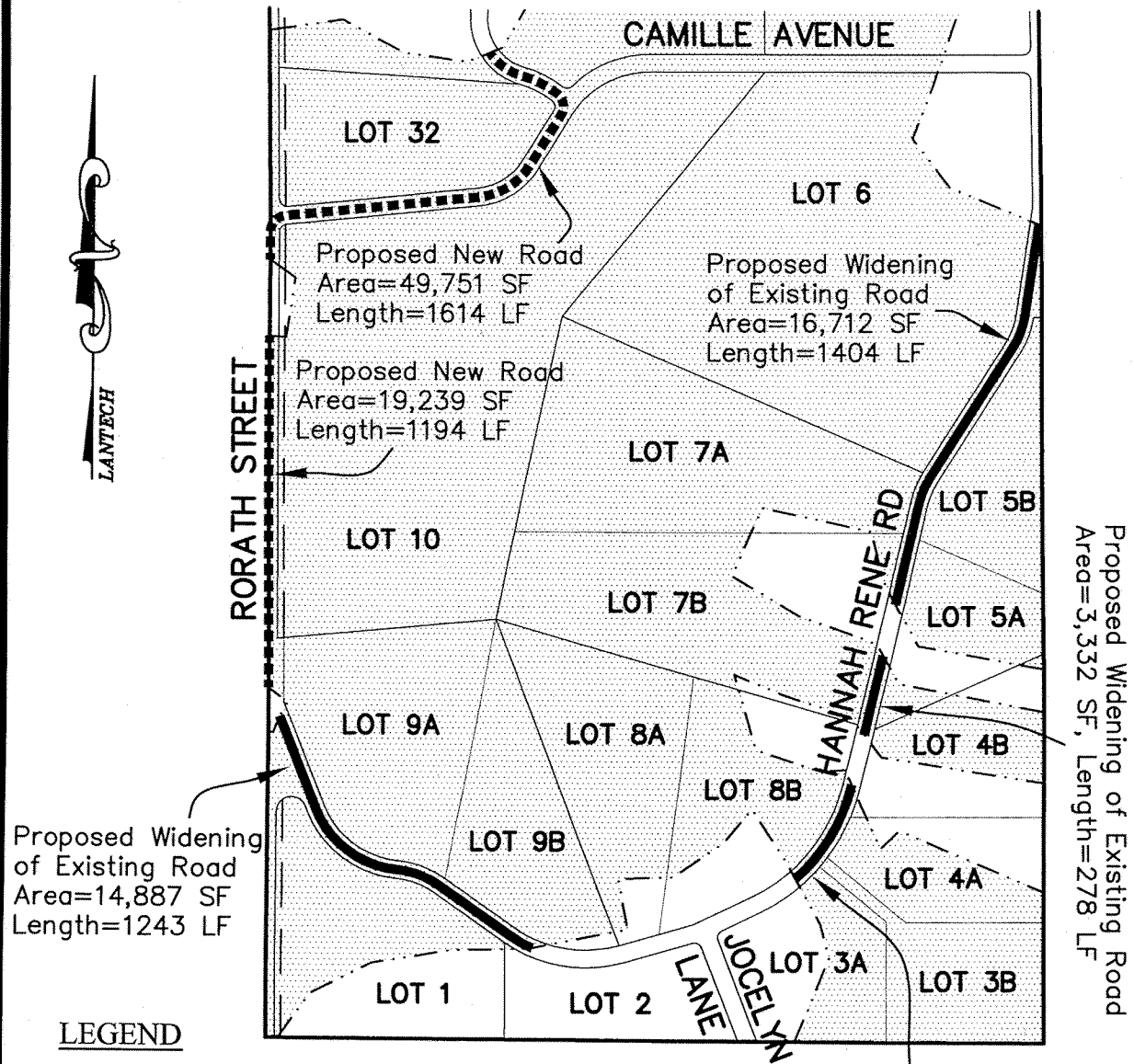
POA-2006-1660-M1, Chakok River

July 9, 2008

Sheet 2 of 6



Match Sheet 3



# LEGEND

- Wetland Area
- Wetland Boundary
- Wetland Area Impacted by Proposed New 32' Road
- Wetland Area Impacted by Proposed 12' Widening of Existing 20' Road

EXHIBIT

Sheet 2 of 4

JULY 9, 2008

SCALE: 1"=600'

Lantech

Proposed Roadway in Wetland Areas

Peakaview Subdivision

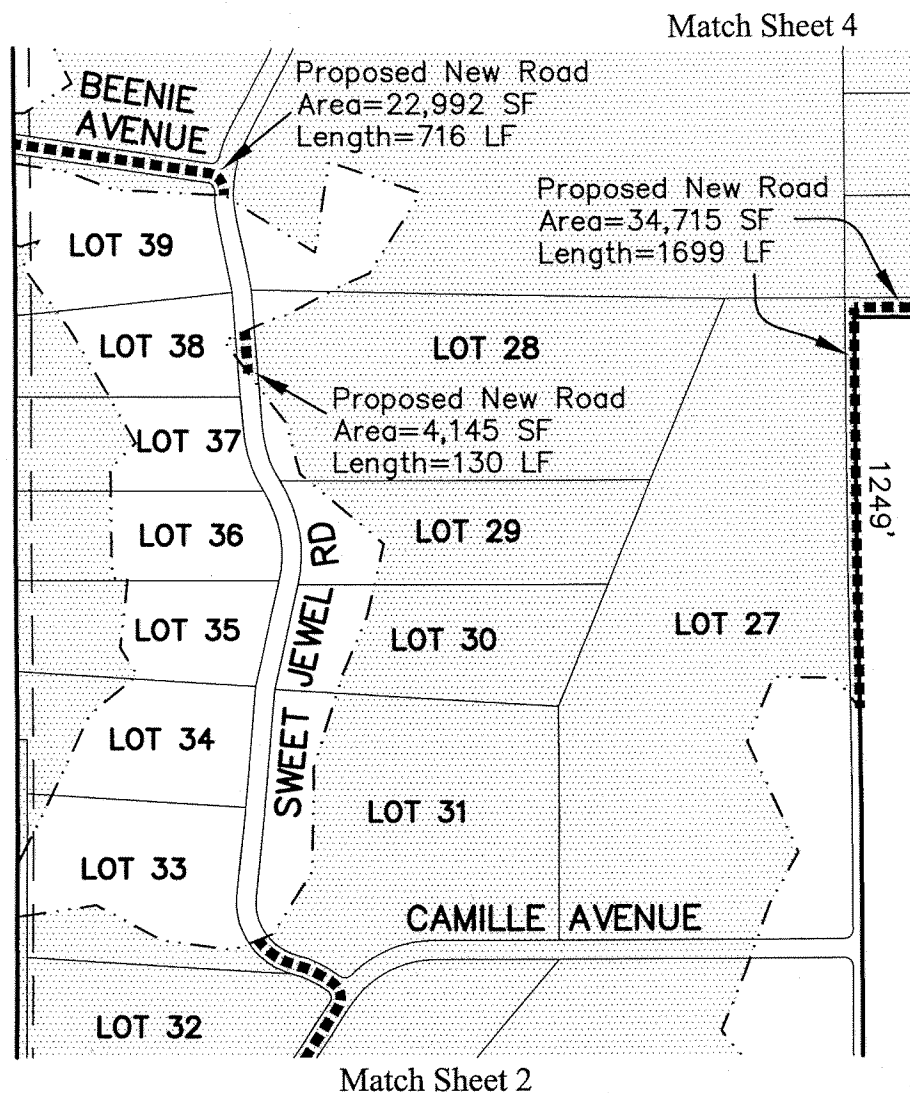
Plat 2004-97, Homer Recording District

Peakaview Subdivision Roads

POA-2006-1660-M1, Chakok River

July 9, 2008

Sheet 3 of 6



### LEGEND

- Wetland Area
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## EXHIBIT Sheet 3 of 4

JULY 9, 2008

SCALE: 1"=600'

**Lantech**

Peakaview Subdivision Roads

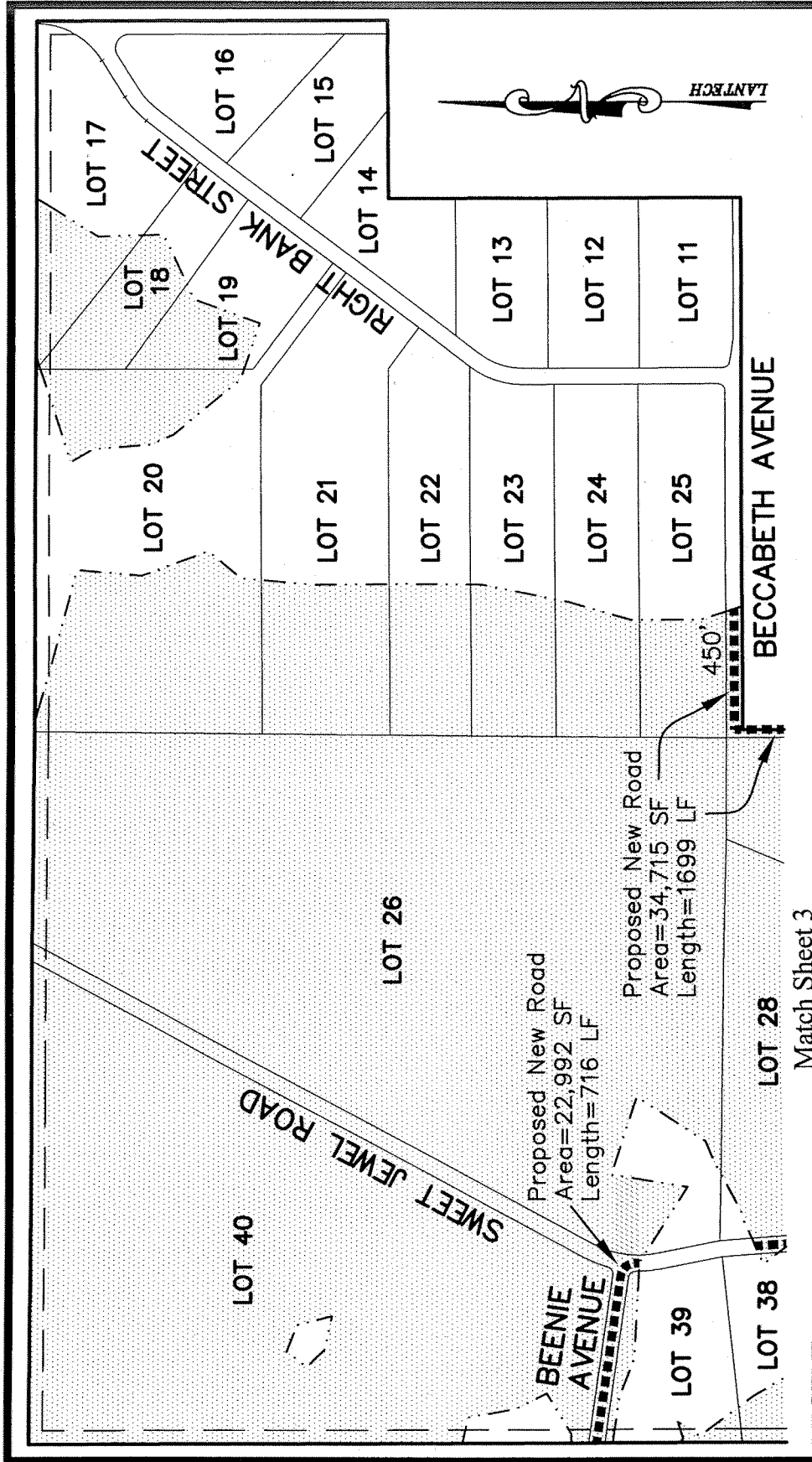
### Proposed Roadway in Wetland Areas Peakaview Subdivision

Plat 2004-97, Homer Recording District

POA-2006-1660-M1, Chakok River

July 9, 2008

Sheet 4 of 6



# LEGEND

- Wetland Boundary
- Wetland Area Impacted by Proposed New 32' Road
- Wetland Area Impacted by Proposed 12' Widening of Existing 20' Road

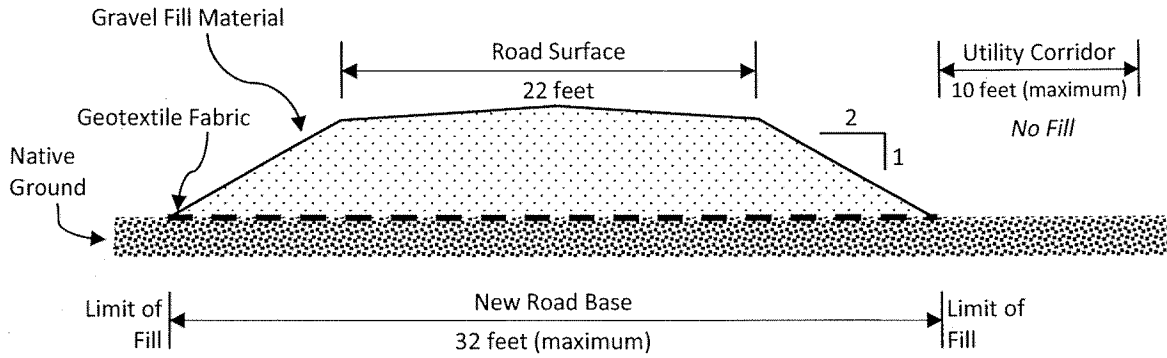
EXHIBIT Sheet 4 of 4

Proposed Roadway in Wetland Areas  
 Peakaview Subdivision  
 Plat 2004-97, Homer Recording District



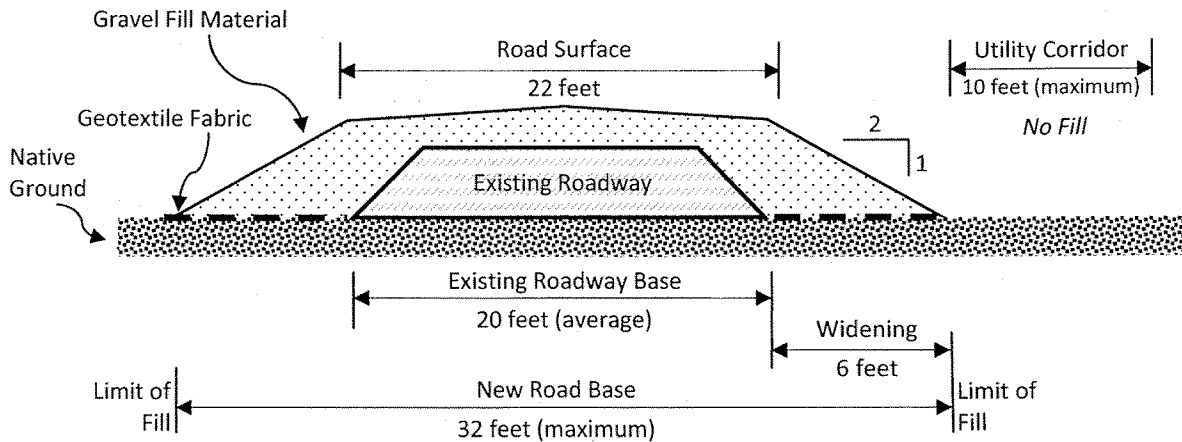
## Typical Roadbed Section New Road in Wetlands

*Not to Scale*



## Typical Roadbed Section Road Widening in Wetlands

*Not to Scale*



Applicant:

**Peakview Development Company, LLC**  
4313 Arctic Blvd., Suite 206  
Anchorage, AK 99518

Project:

**Peakview Subdivision**

Peakview Subdivision  
Kenai Peninsula Borough  
(T04S R14W SM)

Prepared by **Restoration Science and Engineering**